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HOUSE RESEARCH ORGANIZATION

———— daily floor report ————

Monday, May 22, 2017
85th Legislature, Number 78
The House convenes at 10 a.m.
Part One

Forty-five bills are on the daily calendar for second-reading consideration today. Bills on the Major State and General State calendars analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.



Dwayne Bohac
Chairman
85(R) - 78

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Monday, May 22, 2017

85th Legislature, Number 78

Part 1

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SUBJECT: Grants to reduce arrests, incarcerations of persons with mental illness

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Price, Sheffield, Arévalo, Burkett, Coleman, Collier, Cortez,
Guerra, Klick, Oliverson, Zedler

0 nays

SENATE VOTE: On final passage, April 20 — 31-0

WITNESSES: No public hearing

DIGEST: CSSB 292 would require the Health and Human Services Commission to establish a program to provide grants to county-based community collaboratives in order to reduce recidivism, arrest, and incarceration of individuals with mental illness. Grants also would be provided to decrease the wait time for forensic commitment of persons with mental illness to a state hospital.

To receive a grant, a community collaborative would have to include a county, a local mental health authority that operated in the county, and each hospital district, if any, in the county. It would have to provide matching funds from non-state sources. If a county had a population of less than 250,000, the matching funds would have to be at least 50 percent of the grant. For counties with populations of 250,000 or more, the matching funds would have to be 100 percent of the grant amount. If a collaborative had multiple counties, the matching funds would have to be equal to the percentage of the grant amount otherwise required for the largest county in the collaborative.

The commission would have to reserve 40 percent of funds appropriated for the program in each fiscal year for grants to collaboratives that included a county with a population of less than 250,000. If the commission had funds available in a fiscal year after distributing grants, it would be required to use a competitive process to award the funds without this limit.

For each request for grant funds, the commission would have to estimate the number of cases of serious mental illness in low-income households in the county included in the collaborative. Low-income households would be defined to mean households with total income at or below 200 percent of the federal poverty guideline. The estimate would have to be used to determine the amounts of grants with a formula in the bill.

The bill would establish acceptable uses for the grant funds, including:

- the continuation of a mental health jail diversion program;
- the establishment or expansion of such a program;
- the establishment of alternatives to competency restoration in a state hospital;
- the provision of certain types of treatment and services;
- the establishment of a rapid response team to reduce law enforcement's involvement with mental health emergencies; and
- the provision of local community hospital, crisis, respite, or residential beds.

The bill would establish what collaboratives would have to include with petitions asking for grant funds and the deadlines for submitting petitions, awarding grants, and submitting reports on the effects of the grant money in achieving certain outcomes.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSSB 292 would establish a statewide grant program for community collaboratives to divert appropriate offenders with mental illness from the criminal justice system. These programs could encompass a wide range of strategies, including early intervention, to reduce the number of individuals in jails with mental illness and wait times for those needing to have competency restored.

The program would be based on a successful jail diversion pilot program operated by Harris County. Programs to divert appropriate individuals from local jails and lessen their involvement in the criminal justice system

would be better for those with mental illness while easing pressure on criminal justice resources and preserving them for the most serious cases.

Community collaboratives receiving grants under the bill would promote coordination among counties, local mental health agencies, service providers, and other entities. The bill would require matching funds from the cooperatives and allow them to develop their own programs to ensure these initiatives were supported by local entities and tailored to local needs. The bill would set parameters and expectations on the grant-funded programs to make sure they were focused on the desired outcomes of reducing recidivism, frequency of arrest, and incarceration.

The grant program in the bill would be available statewide because the issues being addressed are statewide problems. The bill would reserve a portion of any funds awarded to smaller counties to ensure they were able to develop diversion programs. These counties often have scarce financial and workforce resources available to deal with these issues. The majority of the funds, however, would be apportioned statewide using a fair formula so that all Texans had access to help from the grants.

OPPONENTS
SAY:

The jail diversion grant program created by CSSB 292 should ensure that enough resources are focused on the state's most populous areas, which in many cases have the most substantial needs.

NOTES:

According to the Legislative Budget Board's fiscal note, the bill would have a negative impact of \$18.8 million in fiscal 2018-19. The bill would make no appropriation but could provide the legal basis for an appropriation to implement its provisions.

SUBJECT: Helping students understand college course sequencing, transferability

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Gooden, K. King,
Koop, Meyer, VanDeaver

0 nays

1 absent — Dutton

SENATE VOTE: On final passage, April 25 — 30-1 (Hall)

WITNESSES: For — (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators; Priscilla Camacho, San Antonio Chamber of Commerce; Miranda Goodsheller, Texas Association of Business; Barry Haenisch, Texas Association of Community Schools; Justin Yancy, Texas Business Leadership Council; David Hinojosa, Texas Latino Education Coalition; Colby Nichols, Texas Rural Education Association; Texas Association of Community Schools; Mike Meroney, Texas Workforce Coalition, BASF Corporation, Huntsman Corporation)

Against — None

On — (*Registered, but did not testify*: Monica Martinez and Kelly Ocasio, Texas Education Agency)

DIGEST: CSSB 2131 would establish requirements that high school counselors inform students about clear and efficient pathways to completion of undergraduate certificate and degree programs.

Guided Pathways. The bill would establish the Texas Guided Pathways program. Its goals would include providing recommended course sequences for all undergraduate certificate and degree programs at institutions of higher education, increasing the efficiency of transferring course credit between two-year and four-year institutions, and helping students avoid taking courses that do not count toward degree and

certificate programs.

Recommended course sequences. Each public institution of higher education would develop a recommended course sequence for each undergraduate certificate or degree program that would enable a student to obtain an associate degree or certificate within four semesters or a baccalaureate degree program within eight semesters.

Before June 1 of each year, each institution would have to make necessary updates to recommended course sequences, submit each recommended course sequence to the Texas Higher Education Coordinating Board and post each on the institution's website. Institutions that did not use the common course numbering system would need to include information regarding the course equivalent under the numbering system. The initial recommended course sequences would be submitted to the coordinating board and posted on the institution's website by August 15, 2018.

Higher education institutions would be required to inform students about the recommended course sequences and incorporate those sequences into student advising. An institution would be allowed to modify its recommended sequences, if necessary, by following certain procedures and notifying the board if necessary.

By November 1 of each even-numbered year, beginning in 2018, the coordinating board would submit a report to the Legislature on the recommended course sequences at institutions of higher education.

Web-based platforms. The coordinating board, in consultation with the Texas OnCourse Initiative and its partnering institutions of higher education, would be required to establish a statewide web-based platform that would enable a student to:

- search for and compare recommended course sequences at institutions of higher education; and
- determine whether a specific lower-division course would transfer to another institution for course credit applied toward a certificate or degree program and toward that institution's recommended course sequence for that program.

A link to the web-based platform would be required on the website of any electronic common application system developed by the board.

Transfer compacts. Before March 15 of each year, each higher education institution would be required to submit to the coordinating board a list of the transfer compacts the institution was a part of and a copy of each transfer compact. The board, in consultation with the Texas OnCourse Initiative, would be required to create a web-based platform by March 15, 2019, to provide students information on transfer compacts.

Before November 1 of each even-numbered year, beginning in 2020, the coordinating board would submit to the Legislature a report on transfer compacts between institutions of higher education. The initial report would be due by November 1, 2020.

Counseling requirements. Beginning with the 2017-2018 school year, high school counselors would provide information to students and their parents, including on the district or school website, about the availability of dual-credit and joint high school and college credit programs, including:

- the types of courses offered under each program, such as whether the courses are in the core curriculum of a certificate or degree program at an institution of higher education or are career and technology education courses; and
- whether the courses offered under each program would transfer to an institution of higher education for course credit applied toward a certificate or degree program.

Counselors would be required to provide information on recommended course sequences at and transfer compacts between institutions of higher education, including web-based platforms developed under the Texas Guided Pathways program.

Each district and open-enrollment charter school, in consultation with school counselors, would be required to develop a procedure for documenting on each student's transcript any postsecondary advising

services provided to the student under the bill's requirements, including the person or counseling provider who provided the services.

Other provisions. The coordinating board could solicit and accept gifts, grants, and donations from any public or private source for any expenses related to the Texas Guided Pathways program. The board, in consultation with institutions of higher education, would adopt rules for the electronic submission of information and could adopt rules as necessary to implement the Texas Guided Pathways program.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSSB 2131 would ensure that high school students were adequately advised before enrolling in dual-credit and other programs that allow them to earn college credit. In some cases, students may take lower division courses that do not apply to the degree program they are planning to pursue. This can result in wasted time and reduce the tuition savings students are seeking by taking college courses while still in high school.

The bill also would help students in community colleges who were planning to transfer to a four-year college or university by requiring higher education institutions to recommend proper course sequencing and transfer compacts. This information can help students graduate on time and avoid wasting tuition on courses that would not apply to their degree or certificate program.

**OPPONENTS
SAY:**

CSSB 2131 would add to the already significant state requirements on high school counselors by requiring them to provide detailed information about the transferability and degree requirements for dual-credit courses. The Legislature should provide funding for additional counselors if it increases their job duties.

NOTES:

CSSB 2131 differs from the Senate-passed version in that the committee substitute would establish the Texas Guided Pathways program that includes requirements for institutions of higher education to post information about course sequencing and credit transfers.

SUBJECT: Requiring DSHS to post guidelines for reporting maternal mortality rates

COMMITTEE: Public Health — favorable, without amendment

VOTE: 8 ayes — Price, Sheffield, Arévalo, Burkett, Guerra, Klick, Oliverson, Zedler

0 nays

3 absent — Coleman, Collier, Cortez

SENATE VOTE: On final passage, May 4 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — (*Registered, but did not testify*: Juliana Kerker, American Congress of Obstetricians and Gynecologists - Texas District, Texas Association of Obstetricians and Gynecologists; Stacey Pogue, Center for Public Policy Priorities; Mandi Kimball, Children at Risk; Liz Garbutt, Children's Defense Fund - Texas; Wendy Wilson, Consortium of Texas Certified Nurse Midwives; Leah Gonzalez, Healthy Futures of Texas; Grace Chimene, League of Women Voters of Texas; Nora Del Bosque, March of Dimes; Jason Sabo, Mental Health America of Greater Houston; Gyl Switzer, Mental Health America of Texas; Sebastien Laroche, Methodist Healthcare Ministries of South Texas, Inc.; Greg Hansch, National Alliance on Mental Illness Texas; Will Francis, National Association of Social Workers - Texas Chapter; Jessica Schleifer, Teaching Hospitals of Texas; Adriana Kohler, Texans Care for Children; Joshua Houston, Texas Impact; Michelle Romero, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Bryan Hebert, United Ways of Texas; Maggie Jo Buchanan, Young Invincibles; Nancy Sheppard)

Against — None

On — (*Registered, but did not testify*: Evelyn Delgado, Department of State Health Services)

BACKGROUND: Health and Safety Code, sec. 34.001(12) defines a pregnancy-related death as the death of a woman while pregnant or within one year of

delivery or end of pregnancy, regardless of the duration and site of the pregnancy, from any cause related to or aggravated by her pregnancy or its management, but not from accidental or incidental causes.

Observers have suggested that there are variations in how pregnancy-related deaths are investigated, depending on the investigating system involved, and contend that some deaths that should have been investigated by a medical examiner were not appropriately directed to the medical examiner system. Some suggest developing best practices for maternal mortality reporting and investigations and for death certificate data.

DIGEST: SB 1599 would require the Department of State Health Services (DSHS) to post on its website information on the systematic protocol for pregnancy-related death investigations and the best practices for reporting pregnancy-related deaths to the medical examiner or justice of the peace of each county, as applicable. The posted information would have to include guidelines for:

- determining when a comprehensive toxicology screening should be performed on a person whose death was related to pregnancy;
- determining when a death should be reported to or investigated by a medical examiner or justice of the peace in the county where the death occurred; and
- correctly completing the death certificate of a person whose death was related to pregnancy.

The Health and Human Services Commission executive commissioner would adopt rules to implement its provisions.

The bill would take effect September 1, 2017.

SUBJECT: Extending alternative methods for high school graduation requirements

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Huberty, Allen, Bohac, Deshotel, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

2 absent — Bernal, Dutton

SENATE VOTE: On final passage, May 1 — 28-3 (Burton, Campbell, Nelson)

WITNESSES: For — Patrick Cherry and Tyra Walker, Alief ISD, Texas School Alliance, Texas Association of School Administrators; Paige Duggins, MALDEF; Theresa Trevino, Texans Advocating for Meaningful Student Assessment, Commissioner Texas Next Generation of Assessment and Accountability; David Hinojosa, Texas Latino Education Coalition; JW Lively; Nicole Oman; (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators; Chris Masey, Coalition of Texans with Disabilities; Jodi Duron, Elgin ISD; Ashlea Graves, Houston ISD; Grace Chimene, League of Women Voters of Texas; Kristi Hassett and Kronda Thimesch, Lewisville ISD; Priscilla Camacho, San Antonio Chamber of Commerce; Jesus Chavez, South Texas Association of Schools; Kim Cook, TAMSA; Ted Melina Raab and Dwight Harris, Texas AFT (American Federation of Teachers); Barry Haenisch, Texas Association of Community Schools; Grover Campbell, Texas Association of School Boards; Paige Williams, Texas Classroom Teachers Association; Janna Lilly, Texas Council of Administrators of Special Education; Kyle Ward, Texas PTA; Colby Nichols, Texas Rural Education Association, Texas Association of Community Schools; Dee Carney, Texas School Alliance; Portia Bosse, Texas State Teachers Association; Marty De Leon, Texas Urban Council; Katherine Bacon; Silvia Martinez; Mike Meroney; Laura Yeager)

Against — Drew Scheberle, Austin Chamber of Commerce; (*Registered, but did not testify*: Miranda Goodsheller, Texas Association of Business)

On — (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees; Monica Martinez, Texas Education Agency)

BACKGROUND: The 84th Legislature in 2015 enacted SB 149 by Seliger, which establishes an alternative method to satisfy state graduation requirements for high school students who have completed their required high school curriculum but failed to pass up to two end-of-course exams. The process requires the use of individual graduation committees composed of parents, teachers, and administrators, to recommend additional requirements for the student and decide whether the student should be allowed to graduate and receive a high school diploma. The alternative method expires September 1, 2017.

DIGEST: CSSB 463 would postpone the expiration date of statutory provisions that allow students who had failed two end-of-course exams to be considered for graduation by an individual graduation committee. It also would allow alternative methods of graduation for certain former students who did not meet graduation testing requirements and revise reporting requirements related to students who had graduated using alternative methods.

Graduation committees. The bill would continue until September 1, 2019, the requirement that districts and charter schools establish individual graduation committees for students who failed to pass one or two required EOC exams. The bill also would extend until September 1, 2019, a provision allowing a student who twice failed to pass an EOC exam for Algebra I or English II to satisfy exam requirements by receiving a proficient core on the Texas Success Initiative diagnostic assessment for the corresponding subject.

The bill also would extend applicability of the graduation committee provisions to students who had entered 9th grade before the 2011-2012 school year if those students had:

- successfully completed the applicable curriculum requirements;
- had not performed satisfactorily on an assessment instrument or part of an assessment instrument required for high school graduation; and

- had been administered that assessment instrument at least three times.

The Commissioner of Education would be required to establish by rule a procedure to determine whether a student who had entered 9th grade before the 2011-2012 school year could qualify to graduate and receive a diploma. In adopting those rules, the commissioner would be required to:

- designate the school district in which a student is or was last enrolled to make the decision whether the student qualified to graduate; and
- establish criteria for those districts to develop recommendations for alternative graduation requirements.

For students who had entered 9th grade before the 2011-2012 school year, the commissioner could authorize as an alternative requirement:

- an alternative assessment instrument and performance standard for that instrument;
- work experience; or
- military or other relevant life experience.

A school district's decision on whether the student qualified to receive a diploma would be final and could not be appealed. These alternative requirements would expire September 1, 2019.

TAKS exams. Effective September 1, 2019, the bill would prohibit a district from administering a Texas Assessment of Knowledge and Skills (TAKS) exam. In 2007, the 80th Legislature replaced the TAKS exams with EOC exams.

Reporting requirements. The bill would require the Texas Higher Education Coordinating Board (THECB) to report on the post-secondary plans of students who were permitted to graduate based on the decision of an IGC. The data would include whether the student entered the workforce, enrolled in an associate degree or certificate program at an institution of higher education, or enlisted in the armed forces or the

Texas National Guard. The data would be reported to the Legislature by December 1 of each even-numbered year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSSB 463 would allow for continued use of individual graduation committees that have successfully evaluated thousands of students who failed to pass one or two of their five required end-of-course exams. The graduation committees are able to consider the entirety of a student's work and assign additional remediation as well as the completion of a project or portfolio to determine whether the student had mastered the content of the course for which the student failed an exam. This holistic process has been particularly helpful for students with language barriers or learning disabilities or who experience testing anxiety and should be extended to help more students with these issues.

Data collected by the Texas Education Agency shows that only about 2 to 3 percent of high school graduates in the 2015 and 2016 graduating classes received their diplomas by a graduation committee. The latest data, from the 2016 graduating class, showed that of the nearly 13,000 students assigned to a graduation committee, about 70 percent were approved for graduation. The fact that 30 percent of eligible students were not approved shows that the committees are taking their work seriously and not merely rubber-stamping students for graduation.

The bill would extend the graduation committee process to students who entered the 9th grade before the 2011-2012 school year. In addition, it could allow those former students to demonstrate that they are qualified to receive their diplomas through other measures, including work or military experience. Some of these students have achieved postsecondary success but are still trying to pass the TAKS test after retaking it multiple times. The bill would offer them an opportunity to obtain their diplomas and move on with their lives.

The Texas Commission on Next Generation Assessments and Accountability, created by the 84th Legislature to study state testing

requirements, recommended that the Legislature retain the individual graduate committee option.

The bill's requirements for the Texas Higher Education Coordinating Board to study how students who were graduated by a committee fare in higher education and the workplace would help determine whether these students were prepared for postsecondary success.

**OPPONENTS
SAY:**

CSSB 463 would continue a process that effectively amounts to social promotion by allowing a school committee to bypass the state's longstanding requirement that students pass a high school exit-level exam. The Legislature in 2015 cited problems related to the phase-in of the more difficult STAAR exams in creating the alternate process for three school years. Students and teachers now have had additional time to academically prepare for STAAR EOC exams and the Legislature should let the graduation committees expire this fall as planned.

The bill also would allow a graduation committee to graduate students from the class of 2015 or earlier if the committee felt that the students should have earned a diploma even if they had not passed a single graduation test. A diploma should demonstrate that a student has mastered course content and is prepared to succeed in college and the workplace and weakening standards lessens the value of a diploma.

**OTHER
OPPONENTS
SAY:**

CSSB 463 should continue the graduation committee process indefinitely or eliminate the requirement that students must pass state standardized tests in order to graduate. The federal government does not require a high-stakes exit exam and neither do the majority of states. Of the minority of states that do require an exit-level exam, nearly all allow some kind of alternative option for students to demonstrate their eligibility to graduate.

NOTES:

CSSB 463 differs from the Senate-passed version by allowing the existing graduation committee process to be used for students who entered the 9th grade before the 2011-2012 school year. It also would authorize the education commissioner to consider those students' performance on alternative assessments and their work, life, or military experience.

Two companion bills were referred to the House Public Education

Committee: HB 77 by Metcalf on February 13 and HB 966 by Huberty on February 27.

SUBJECT: Requiring a study of course credit transfers between public colleges

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 8 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Howard, Morrison, Turner
0 nays
1 absent — Clardy

SENATE VOTE: On final passage, March 22 — 29-0

WITNESSES: For — (*Registered, but did not testify*: Elizabeth Caudill, Dallas Regional Chamber; Priscilla Camacho, San Antonio Chamber of Commerce; Miranda Goodsheller, Texas Association of Business; Dustin Meador, Texas Association of Community Colleges; Mike Meroney, Texas Workforce Coalition, BASF Corporation, Huntsman Corporation)

Against — None

On — (*Registered, but did not testify*: Rex Peebles, Texas Higher Education Coordinating Board)

BACKGROUND: Some observers have suggested that partnerships between colleges and universities to allow certain course credits to transfer between institutions, also called articulation agreements, can be difficult for students to navigate.

DIGEST: SB 802 would require the Texas Higher Education Coordinating Board to conduct a study to identify best practices to ensure that courses transferred to an institution of higher education for course credit, including courses for dual credit, apply toward a degree program.

The study would have to evaluate existing articulation agreements governing the transfer of credit between institutions and identify the institutions that were implementing the best practices. On request, an

institution of higher education would have to provide information to the board for this study.

The board would have to submit the results of the study and any recommended legislative action to the Legislature by November 1, 2018.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Providing facility funding for school districts that annex failing districts

COMMITTEE: Public Education — favorable, without amendment

VOTE: 10 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Gooden, K. King,
Koop, Meyer, VanDeaver

0 nays

1 absent — Dutton

SENATE VOTE: On final passage, May 15 — 31-0

WITNESSES: None

BACKGROUND: Under Education Code, sec. 13.054, the Commissioner of Education by order may annex to one or more adjoining districts a school district that has been rated academically unacceptable for two years. Sec. 13.054(f) requires state Tier 1 funding be adjusted for the enlarged district for five years beginning with the school year in which the annexation occurs. Funding is adjusted using a multiplier that takes into consideration the number of students residing in the enlarged district before and after annexation. Sec. 13.054(g) entitles a district to additional state aid for debt service under certain conditions.

Some have suggested that districts forced to annex neighboring districts should receive additional funding for facility costs associated with the annexation.

DIGEST: SB 1353 would assist a district to which territory was annexed with the costs of facility renovation, repair, and replacement. It would entitle the district to additional state aid for five years, beginning with the school year in which the annexation occurred.

The bill would replace existing law entitling a district to additional state aid equal to the amount by which the annual debt service required to meet the indebtedness incurred by the district due to the annexation exceeds the

additional amount of state aid that results from Education Code, sec. 13.054(f). Instead, the Commissioner of Education would determine the amount of additional state aid in the amount of debt service taxes levied by the receiving district in the tax year preceding the annexation per student and multiplying that per student amount by the additional students enrolled in the district on September 1 following the annexation.

The commissioner would be required to provide the additional state aid from funds appropriated for the Foundation School Program and available for that purpose. The commissioner's determination would be final and could not be appealed.

The bill would apply to a school district to which territory was annexed on or after July 1, 2016. The commissioner would be required to implement the bill only if the Legislature appropriated money specifically for that purpose. If money was not appropriated, the commissioner could, but would not be required to, implement the bill using other available appropriations.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

NOTES:

According to the Legislative Budget Board's fiscal note, SB 1353 would cost the Foundation School Fund an estimated \$10.1 million in fiscal 2018-19, assuming that the Legislature appropriated funds for the bill. The Texas Education Agency indicates that the only district to which the bill would currently apply would be Texas City ISD, which annexed La Marque ISD in July 2016.

A companion bill, HB 3106 by Faircloth, was left pending following a public hearing in the House Public Education Committee on April 11.

SUBJECT: Relating to teacher preparation, certification, and classification

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

1 absent — Dutton

SENATE VOTE: On final passage, May 4 — 30-1 (Burton)

WITNESSES: For — Mary Malone; (*Registered, but did not testify*: Megan Herring, Children at Risk, Dallas ISD, Early Matters Dallas, First 3 Years, Stand for Children, Success By 6, United Way for Greater Austin, the Commit Partnership; Liz Garbutt, Children's Defense Fund - Texas; John R. Pitts, Dallas Early Education Alliance, Momentous Institute, United Way of Metro Dallas; Lanet Greenhaw, Dallas Regional Chamber; Jenna Watts, Deans For Impact; Seth Rau, San Antonio ISD; Diane Ewing, Texans Care for Children; Miranda Goodsheller, Texas Association of Business; Kyle Ward, Texas PTA; Bryan Hebert, United Ways of Texas; Lindsay Sobel)

Against — None

On — John Fitzpatrick, Educate Texas, CFT; David Hinojosa, Texas Latino Education Coalition; (*Registered, but did not testify*: Ryan Franklin, Texas Education Agency)

BACKGROUND: Education Code, sec. 21.003(a) requires that a person employed as a teacher in a public school district hold the appropriate teaching certificate. Under 19 TAC, part 7, §233.2, teachers who teach prekindergarten through grade 6 must hold an early childhood through grade 6 certificate.

Under Education Code, sec. 42.006, each school district is required to participate in the Public Education Information Management System

(PEIMS). Each school district and open-enrollment charter school is required to provide certain information, including the number of students with dyslexia and useful, accurate, and timely information on student demographics and academic performance, personnel, and school district finances.

Observers have suggested that educator preparation programs could benefit from having data provided through the Public Education Information Management System (PEIMS) to measure student outcomes. Some also note that offering a specialized certificate to teach prekindergarten through grade 3 would provide educators with the knowledge and skills needed to instruct those grades. Others contend that a more streamlined certification process for out-of-state teachers would benefit public education.

DIGEST: CSSB 1839 would require the Texas Education Agency (TEA) to provide certain data to educator preparation programs, create an early childhood certification to teach students in prekindergarten through grade three, and revise the certification process for teachers from out of state.

Access to PEIMS data. CSSB 1839 would require TEA to provide educator preparation programs with data based on information reported through the Public Education Information Management System (PEIMS) that would enable an educator preparation program to:

- assess the impact of the program; and
- revise the program as needed to improve its design and effectiveness.

TEA, in coordination with the State Board for Educator Certification (SBEC), would be required to solicit input from educator preparation programs to determine the data to be provided.

TEA would be required to provide data that is compiled and analyzed by the TEA based on information reported through PEIMS to each educator preparation program.

Early childhood certification. CSSB 1839 would require the SBEC to

create an early childhood certificate to specially train teachers on instruction in prekindergarten through grade 3. A person would not have to hold the certificate to teach prekindergarten through grade 3 in a school district. To be eligible for the certificate, a person either would have to complete the course work for an early childhood certificate in an educator preparation program or would have to hold an early childhood through grade six certificate and complete a course of instruction in early childhood education. Candidates also would have to perform satisfactorily on an early childhood certificate exam and satisfy any other board requirements.

The board would develop criteria for the course of instruction for an early childhood certificate in consultation with college and university faculty members who taught education preparation programs.

SBEC would propose rules establishing requirements and prescribing an exam for early childhood certification and standards governing the approval and renewal of educator preparation programs for that certification.

Out-of-state teacher certification. The commissioner of education could adopt rules establishing exceptions to the examination requirements for an educator from outside the state to obtain a certificate in Texas.

Effective date. The bill would take effect September 1, 2017. The commissioner of education would have to implement provisions related to the access of PEIMS data only if the Legislature appropriated money for that purpose. Otherwise, the commissioner would be authorized but not required to implement them using other available funds.

NOTES:

The Legislative Budget Board estimates CSSB 1839 would result in a negative impact of \$595,888 to general revenue related funds through fiscal 2019, assuming the Legislature made an appropriation to implement the bill.

SUBJECT: Applying for restoration of capacity or modification of a guardianship

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Smithee, Farrar, Gutierrez, Hernandez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

SENATE VOTE: On final passage, April 19 — 30-1 (Bettencourt)

WITNESSES: No public hearing

BACKGROUND: Estates Code, sec. 1202.054 allows a ward to request an order by informal letter to the court stating that a guardianship needs to be modified or is no longer necessary. After receiving the informal request, the court is required to appoint a court investigator or guardian ad litem to investigate the ward's circumstances and determine if the guardianship is necessary or if it needs to be modified.

Sec. 1202.051 allows a ward or interested person to file an application with a court for an order finding that the ward was no longer incapacitated or that the ward's level of capacity had changed sufficiently to warrant a modification in the guardian's powers or duties.

Sec. 1202.152 would not allow a court to grant an order completely restoring a ward's capacity or modifying a ward's guardianship under an application filed under sec. 1202.051 unless the applicant presents a letter from a physician to the court containing certain information regarding the ward's capacity.

Some interested parties have suggested that existing law could be modified to better respect the rights and wishes of wards seeking to restore legal capacity or modify a guardianship.

DIGEST: SB 1710 would prohibit a court from requiring the appointment of a

successor guardian before considering an application to modify or remove the guardianship if the guardian of a ward who was the subject of an application for an order of restoration had resigned, was removed, or had died. This change would apply to an application for modification of a guardianship or a restoration of capacity filed before, on, or after the bill's effective date.

If a ward sent an informal letter to a court to request an order revising the guardianship, a written letter from a physician would not be required before the appointment of a court investigator or guardian ad litem. The court would be required to acknowledge receipt of the informal letter within 30 days and advise the ward of the date the investigator or guardian ad litem was appointed and the contact information of the court investigator or guardian ad litem. The court investigator or guardian ad litem would be required to provide the ward with a report of the investigation's findings.

The bill would take effect September 1, 2017, and except as otherwise specified would apply only to a request by informal letter for an order delivered on or after the effective date.

SUBJECT: Allowing legislators to opt out of serving on a reinvestment zone's board

COMMITTEE: General Investigating and Ethics — favorable, without amendment

VOTE: 6 ayes — S. Davis, Capriglione, Nevárez, Price, Shine, Turner

0 nays

1 absent — Moody

SENATE VOTE: On final passage, April 19 — 31-0

WITNESSES: No public hearing

BACKGROUND: Tax Code, sec. 311.003 allows the governing body of a county or municipality to designate a certain geographic area in the county or municipality as a reinvestment zone to promote development or redevelopment of the area if it would not occur solely through private investment.

Sec. 311.005(a)(4) allows for an area to be designated as a reinvestment zone if requested in a petition that was submitted by the owners of property constituting at least 50 percent of the appraised value of the property in that area.

Secs. 311.009(b) and 311.0091(c) require that the board of directors of a reinvestment zone designated under sec. 311.005(a)(4) include the state House and Senate members in whose districts the zone is located. A member could designate another person to serve in his or her place.

Some observers have contended that elected officials may have personal or professional reasons for declining membership on a reinvestment zone board and should have the option of whether or not to serve.

DIGEST: SB 1465 would require a board of directors of a reinvestment zone to send a certified letter to a member of the Legislature notifying the member that the member was an ex officio member of the board under Tax Code, sec.

311.009(b) or 311.0091(c). This notice would have to be mailed within 90 days of the member being elected to the state Senate or House of Representatives.

A state senator or state representative could elect not to serve on the board or not to designate another individual to serve in the senator's or representative's place. If a senator or representative made this choice, the senator or representative would be required to send a certified letter as soon as practicable and could not be counted as a member of the board for voting or quorum purposes.

The bill would take effect September 1, 2017.

SUBJECT: Providing mortgage loan borrowers with annual financial statements

COMMITTEE: Investments and Financial Services — favorable, without amendment

VOTE: 6 ayes — Parker, Stephenson, Burrows, Dean, Holland, Longoria

0 nays

1 absent — E. Johnson

SENATE VOTE: On final passage, May 10 — 24-5-1 (Burton, Campbell, Creighton, Huffines, Hughes, nay; V. Taylor, present, not voting)

WITNESSES: *On House companion bill, HB 993:*
For — Trish McAllister, Texas Access to Justice Commission; Robert Doggett; (*Registered, but did not testify*: Brian Engel, Barrett Daffin Frappier Turner & Engel, LLP; John Fleming, Texas Mortgage Bankers Association; Nate Walker, Texas Low Income Housing Information Service)

Against — Anthony Gray, Texas Land Developers' Association;
(*Registered, but did not testify*: Chuck Rice, Texas Land Developers Association)

On — Caroline Jones, Department of Savings and Mortgage Lending

DIGEST: SB 830 would require mortgage servicers to provide borrowers with an annual statement for the duration of a loan. Statements would have to be postmarked on or before January 31 and sent by mail to the borrower's last known address. They would have to clearly state:

- the amount of each payment received toward the loan by the mortgage servicer during the last calendar year;
- how each payment was applied to the borrower's account, including the amount applied toward the borrower's principal obligation, interest charged, escrow account, and fees assessed; and
- the outstanding balance of the borrower's principal obligation.

The bill would allow borrowers who did not receive the annual statement to send a request for it from their mortgage servicer by certified mail. If the servicer failed to comply within 25 days of receiving the request and had not sent a default notice to the borrower's last known address, the borrower would be excused from liability for all payments, fees, or other charges owed under the loan during the year to which the annual statement was related. If the mortgagee was not the mortgage servicer, the servicer would be liable for making these payments.

SB 830 would apply only to a loan secured by a lien on residential real property and would not apply to a loan:

- that was a federally related mortgage loan;
- made by a Credit Union Department-regulated credit union;
- primarily for business, commercial, or agricultural purposes;
- primarily for temporary financing; or
- directly financed and serviced by a relative within the second degree of consanguinity or affinity of the borrower.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

SB 830 would ensure that mortgage loan borrowers were informed of how their payments were distributed throughout their account. Sometimes borrowers who do not receive regular breakdowns of repayment distributions assume the whole of their payments is applied to the principal and interest and are unaware that a portion was used to fund escrow accounts or various other fees and charges. Providing clarity to borrowers would save time and money for both lenders and borrowers by reducing miscommunications, ambiguities, and legal disputes.

The bill would ensure fairness in the mortgage loan industry by ensuring that borrowers who made payments on non-federally related loans had access to the same financial information that federal law affords to borrowers making payments on federally related loans. Small-seller transactions disproportionately impact low-income Texans, so providing equal access to information is especially important.

The bill would not overburden mortgage service providers and would not require the statements to be sent by certified mail. Service providers already should maintain this information, so the bill only would result in minimal mailing costs.

OPPONENTS
SAY:

SB 830 would burden mortgage service providers by instituting costly requirements. Servicers likely would send each statement by certified mail to ensure the borrower received it, accumulating a significant overall cost.

NOTES:

A companion bill, HB 993 by Walle, was considered in a public hearing of the House Committee on Investments and Financial Services on March 21 and left pending.

SUBJECT: Increasing the PSF fund capacity available for charter district bonds

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver
0 nays

SENATE VOTE: On final passage, May 1 — 27-3-1 (Hall, Miles, Nichols, nay; West, present, not voting)

WITNESSES: *On House companion bill, HB 467:*
For — David Dunn, Texas Charter Schools Association; Karalei Nunn, Meridian World School; Thomas Sage, Texas Charter School Association; Brent Wilson, Life School; Thomas Ratliff; (*Registered, but did not testify*: Matthew Abbott, Wayside Schools; John Armbrust, Austin Achieve Public Schools; Yasmin Bhatia, Uplift Education; Courtney Boswell, Texas Aspires; Chuck Cook, ResponsiveEd; Michael Feinberg, KIPP Houston; Eric Glenn, Texas Charter School Association; Addie Gomez, Texans for Quality Public Charter Schools; Rebecca Good, Legacy Preparatory Charter Academy; Miranda Goodsheller, Texas Association of Business; Andrew Greenawalt, Austin Achieve Public Schools; Amanda List, Texas League of Community Charter Schools; Justin Yancy, Texas Business Leadership Council; Kathleen Zimmermann, Nyos Charter School; and nine individuals)

Against — Guy Sconzo, Fast Growth School Coalition; (*Registered, but did not testify*: David D. Anderson, Arlington ISD Board of Trustees; Amy Beneski, Texas Association of School Administrators; Curtis Culwell, Texas School Alliance; Tracy Ginsburg, Texas Association of School Business Officials; Dax Gonzalez, Texas Association of School Boards; Colby Nichols, Texas Rural Education Association; Brian Woods, Fast Growth Schools, TASA; Jamie Haynes)

On — (*Registered, but did not testify*: Kara Belew, Von Byer, Leonardo Lopez, and Holland Timmins, Texas Education Agency)

BACKGROUND: In 2013, the 83rd Legislature enacted HB 885 by Murphy, which allowed the use of the Permanent School Fund to back bonds issued by certain charter schools. Sec. 45.0532 establishes limitations on the Permanent School Fund's guarantee of charter district bonds.

DIGEST: SB 1480 would adjust the limitations on the use of the Permanent School Fund to guarantee charter district bonds. The bill would apply the available capacity for charter districts to the total capacity of the bond guarantee program based on the number of students in charter schools as a percentage of all public school students, as determined by the Commissioner of Education.

Charter district bonds capacity. The charter district bonds capacity would apply beginning with fiscal 2022. The State Board of Education (SBOE) would establish the capacity for the preceding state fiscal years by increasing the total limitation on the amount of charter district bonds that could be guaranteed under the law in effect on January 1, 2017, as provided by the bill. For any year, the SBOE could increase the charter capacity by less than those amounts if:

- the board determined that increasing the charter capacity by the prescribed amount likely would result in a negative impact on the bond ratings provided by one or more nationally recognized investment rating firms for school district or charter district bonds for which a guarantee was requested; or
- one or more charter districts defaulted on payment of maturing or matured principal or interest on a guaranteed bond, resulting in a negative impact on the bond ratings.

If the SBOE modified the schedule for any year, it also could make appropriate adjustments to the schedule for subsequent years, provided that the charter capacity for any year could not exceed the limit provided for that year by the schedule contained in the bill. These provisions would expire September 1, 2022.

Confidential information. Information obtained from a nationally recognized investment rating firm that concerned a hypothetical or actual scenario relating to the credit rating of the Permanent School Fund and

communications from such a firm and the SBOE, the Commissioner of Education, or the Texas Education Agency would be confidential and not subject to disclosure under state public information laws.

Commissioner investigation. The commissioner's investigation of an application submitted by a charter district could include evaluation of whether the charter district bond security documents provided a security interest in real property pledged as collateral for the bond and the repayment obligation under the proposed guarantee. The commissioner could decline to approve the application if the commissioner determined that sufficient security was not provided.

The commissioner also could consider any additional reasonable factor, including the charter district's academic and financial performance and whether the charter district had an average daily attendance of more than 75 percent of its student capacity for each of the preceding three school years, or for each school year of operation if the charter district had not been in operation for three school years. The section allowing consideration of additional factors would expire September 1, 2019.

Reserve fund. The SBOE would manage the Charter District Bond Guarantee Reserve Fund, including investments, in the same manner that it manages the Permanent School Fund. The board would be required to adjust the investment portfolio of fund money periodically to ensure that the reserve fund balance was sufficient to meet the cash flow requirements of the fund.

The bill would raise from 10 percent to 20 percent the percentage of the savings to a charter district as a result of the lower interest rate on a bond due to the guarantee by the Permanent School Fund that the charter district would be required to remit to the commissioner for deposit in the reserve fund. The bill would remove the requirement that the amount due be amortized and paid over the duration of the bond, with each payment due on the anniversary of the date the bond was issued. Instead the amount due would be paid on receipt by the charter district of the bond proceeds.

A charter district would be exempted from the remittance requirement if at

the time it received the bond proceeds the balance of the reserve fund was at least equal to 3 percent of the total amount of outstanding guaranteed bonds issued by charter districts. The bill would remove the authorization for the commissioner to direct the comptroller to annually withhold the amount due to the fund for that year on the basis of a charter school's remittances from the state funds otherwise payable to the charter district.

The bill would take effect September 1, 2017, and would apply only to a charter district bond that was approved by the commissioner on or after that date.

**SUPPORTERS
SAY:**

SB 1480 would increase the bond capacity of the Permanent School Fund available to charter schools for facilities funding from 1 percent to 4 percent of the Permanent School Fund bond guarantee. This would reduce the charter school's cost of borrowing to improve and add facilities to meet growing enrollment demand. The increase would occur incrementally over the next five years and would come without any new state appropriations. The bill also would add protections to the Permanent School Fund to increase oversight. It would leave in place stringent access criteria that require a charter school to achieve an investment-grade rating to qualify for the bonds.

**OPPONENTS
SAY:**

Increasing the available bond capacity of the Permanent School Fund guarantee for charter schools could put the fund and future education of Texas public school students at risk. If one or more charter schools defaulted on bonds backed by the Permanent School Fund, it could create a run on the fund and threaten its stability.

NOTES:

According to the Legislative Budget Board's fiscal note, the bill would result in a revenue gain of \$13.1 million to the Charter District Bond Guarantee Reserve Fund in fiscal 2018-19.

A companion bill, HB 467 by Murphy, was reported favorably by the House Public Education Committee on April 11.

SUBJECT: Licensing behavior analysts and assistant behavior analysts in Texas

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Price, Sheffield, Arévalo, Burkett, Coleman, Cortez, Guerra, Klick, Oliverson, Zedler

0 nays

1 absent — Collier

SENATE VOTE: On final passage, May 1 — 25-6 (Burton, Creighton, Hall, Huffines, Nelson, V. Taylor)

WITNESSES: No public hearing

DIGEST: CSSB 589 would require behavior analysts and assistant behavior analysts to have a state-issued license administered and enforced by the Texas Department of Licensing and Regulation (TDLR), starting September 1, 2018. To receive a license, applicants would be required to submit an application, required fees, and proof of a state-approved criminal background check to TDLR and to meet certain other requirements.

License requirements. Applicants for a behavior analyst or assistant behavior analyst license also would be required to present evidence to TDLR that the applicant:

- was currently certified as a Board Certified Behavior Analyst or a Board Certified Behavior Analyst--Doctoral or an equivalent certification;
- had met the educational requirements of those certifications;
- had passed the Board Certified Behavior Analyst examination or an equivalent examination in applied behavior analysis;
- was in compliance with all professional, ethical, and disciplinary standards established by the nationally accredited Behavior Analysis Certification Board or another entity that was accredited by the National Commission for Certifying Agencies or the

American National Standards Institute; and

- was not subject to any disciplinary action by the certifying entity.

Applicants for an assistant behavior analyst license additionally would be required to be supervised by a licensed behavior analyst. The bill would require both types of license applicants to meet any additional requirements of the Texas Commission of Licensing and Regulation.

Reciprocal licensing. The bill would allow a person who already held a valid license as a behavior analyst or an assistant behavior analyst to be licensed in Texas if the license was from another state or jurisdiction that had similar licensure requirements to those in Texas. An applicant for a reciprocal license would have to pay a fee, be in good standing as determined by TDLR, and comply with certain Texas license requirements as specified in the bill.

License renewal. A license as authorized by the bill would be valid for two years, after which a license could be renewed by submitting a renewal application, paying a renewal fee, and providing verification that the applicant had completed any required continuing education requirements.

License denial. The bill would allow the commission or TDLR's executive director to deny, suspend, or revoke a license or place the license holder on probation if the applicant or license holder:

- violated the bill's provisions, a commission rule, or an order by the commission or the executive director;
- obtained a license through fraud, misrepresentation, or concealment of a material fact;
- sold, bartered, or offered to sell or barter a license; or
- engaged in unprofessional conduct, as specified in the bill.

Complaints. TDLR would be required to provide reasonable assistance to a person who wished to file a complaint regarding a licensee or activity related to the practice of applied behavior analysis, as defined by the bill. Certain information about a complaint or investigation concerning a licensee could not be disclosed under the Public Information Act,

disclosure, discovery, subpoena, or other means of legal compulsion to release information. The bill would specify when complaint or investigation information could be released and to whom.

Exceptions. The bill would list the circumstances under which the bill's licensing requirements would not apply to the following individuals:

- licensed psychologists and licensees of certain other professions;
- a family member or guardian of a service recipient;
- an applied behavior analysis technician, behavior technician, tutor, or front-line therapist;
- a college or university student, intern, fellow, or trainee;
- an unlicensed person pursuing supervised experience;
- a certified behavior analyst licensed in another jurisdiction;
- a teacher or employee of a private or public school; and
- individuals who do not provide direct services.

Behavior Analyst Advisory Board. The bill would create the Behavior Analyst Advisory Board to provide advice and recommendations to TDLR on technical matters related to behavior analyst licensing. The board would have nine members, including four licensed behavior analysts, one licensed assistant behavior analyst, one physician who had experience with mental health or behavioral health services, and three public members who were either former recipients of applied behavior analysis services or a recipient's parent or guardian.

The bill would authorize advisory board members to receive reimbursement for actual and necessary expenses incurred in performing board functions, among other provisions specifying how the board would operate. The board members would be appointed as soon as practicable after September 1, 2017, and the first behavior analyst or assistant behavior analyst members appointed to the board would not be required to have a license as long as they met practice requirements as added by the bill.

Effective dates. The bill would take effect September 1, 2017, except as otherwise provided. By April 1, 2018, the Texas Commission of

Licensing and Regulation would be required to adopt the rules, procedures, and fees necessary to administer the bill's provisions.

**SUPPORTERS
SAY:**

CSSB 589 would establish licensing for applied behavior analysis practitioners in Texas, which is necessary to allow these analysts to be reimbursed by certain health insurance plans, including Medicaid. The federal Centers for Medicare and Medicaid require licensure before it will authorize reimbursement for Texas behavior analysts or assistant behavior analysts. Many other states have enacted similar licensing requirements and Texas should join them.

Unlicensed applied behavior analysis is a problem because families who seek out these treatments need to know that they are receiving the services they expect to receive and that their insurance would cover. Insurance companies also need to know whether the practitioners they reimburse are appropriately trained. The bill would accomplish those goals.

The bill also would protect children and families from harm caused by unskilled practitioners. Early and effective applied behavior analysis treatment is necessary for children with autism to develop necessary life and career skills. Unskilled treatment by an unlicensed or untrained analyst could cause a child irreparable harm or to regress. Currently, Texans who are harmed by a fraudulent practitioner have little, if any, protection or legal recourse. Analysts who were disciplined by a national licensing board or by another state's board currently are allowed to practice in Texas and could cause further harm to Texas children and families without licensure.

Regulation of applied behavior analysis should be placed under the Texas Department of Licensing and Regulation rather than the Texas State Board of Examiners of Psychologists because only a few psychologists are trained in applied behavior analysis and the board would not appropriately regulate the profession. Placing licensure under the psychology board also could restrict the scope of practice for behavior analysts and assistant behavior analysts.

**OPPONENTS
SAY:**

CSSB 589 would increase barriers to entry to the applied behavior analyst profession by requiring a state license. Texas needs fewer, not more,

occupational licenses.

OTHER
OPPONENTS
SAY:

The practice of applied behavior analysis should be licensed, but CSSB 589 should place licensure under the umbrella of the Texas State Board of Examiners of Psychologists, not TDLR.

NOTES:

The Legislative Budget Board estimates that the bill would have a positive impact of \$12,142 through the fiscal 2018-19 biennium and an annual positive impact of \$752 from fiscal 2020 to fiscal 2022.

SUBJECT: Prohibiting capture of certain images within 25 miles of border by drones

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — P. King, Nevárez, Burns, Hinojosa, Holland, J. Johnson, Metcalf, Schaefer, Wray

0 nays

SENATE VOTE: On final passage, April 18 — 31-0

WITNESSES: None

BACKGROUND: Government Code, sec. 423.003 criminalizes the use of an unmanned aircraft to capture an image of an individual or privately owned property with the intent to conduct surveillance. This offense is punishable by a class C misdemeanor (maximum fine of \$500).

Under sec. 423.002, the offense does not apply to the use of unmanned aircraft to capture such images in certain circumstances, including for educational research, law enforcement and investigative purposes, utility operations, or capturing images of property located within 25 miles of the U.S. border.

Concerns have been raised that current law governs people and private properties near the U.S. border differently from the rest of the state by allowing any person to use an unmanned aircraft to capture an image with the intent to conduct surveillance on an individual or property within 25 miles of the border.

DIGEST: CSHB 840 would remove from the list of activities designated lawful under Government Code, sec. 423.002 the use of an unmanned aircraft to capture an image of real property or a person on real property that is within 25 miles of the U.S. border.

The bill also would expand the lawful use of unmanned aircraft to capture

for certain purposes an image:

- by or for a telecommunications provider; and
- by or for an insurance company, if the operator was authorized by the Federal Aviation Administration to conduct operations within the airspace from which the image was captured.

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after that date.

NOTES:

CSSB 840 differs from the Senate-passed version in that the committee substitute:

- would expand the lawful use of unmanned aircraft to include capturing an image for telecommunications or insurance purposes; and
- does not include a provision that would have allowed images to be taken of persons or property within 25 miles of the U.S. border for the sole purpose of ensuring border security.

The companion bill, HB 106 by Martinez, was approved by the House on April 28.

SUBJECT: Requiring public higher education institutions to submit plan to THECB

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 8 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Howard, Morrison, Turner

0 nays

1 absent — Clardy

SENATE VOTE: On final passage, April 3 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — (*Registered, but did not testify*: Gyl Switzer, Mental Health America of Texas; Sebastien Laroche, Methodist Healthcare Ministries of South Texas, Inc.; Miranda Goodsheller, Texas Association of Business; Michelle Romero, Texas Medical Association; David Reynolds, Texas Osteopathic Medical Association)

Against — None

On — (*Registered, but did not testify*: Rex Peebles, Texas Higher Education Coordinating Board)

BACKGROUND: Education Code, sec. 61.0512 allows new degree or certificate programs to be added at a public higher education institution if the institution receives prior approval from the Texas Higher Education Coordinating Board. The institution must notify the coordinating board before it can carry out its preliminary planning for a new degree program. Sec. 58A.001 defines a graduate medical education program as a nationally accredited post-doctor of medicine (M.D.) or post-doctor of osteopathic medicine (D.O.) program that prepares doctors to practice medicine in a specialty area.

Observers have noted some medical school graduates are forced to relocate to another state to complete their residencies due to a limited number of in-state residency program options. Requiring a public higher

education institution to submit a plan detailing how its proposed degree program will satisfy the state's increased demand for medical residency slots would help provide more opportunities for graduates to complete their training in Texas.

DIGEST: CSSB 1066 would require a public institution of higher education to submit a plan specifying the addition of first-year residency positions for the graduate medical education program to be offered in connection with the institution's proposed new degree program.

The plan would have to propose an increase in the number of those first-year residency positions that, when combined with the total number of existing first-year residency positions in Texas, would be sufficient to reasonably accommodate the number of anticipated graduates from all of the state's M.D. or D.O. degree programs, including the institution's proposed degree program.

The plan also would have to provide adequate opportunity for those graduates to remain in Texas for the clinical portion of their education. The bill would make the submission of this plan a prerequisite for the Texas Higher Education Coordinating Board's approval of the proposed degree program.

A resident engaged in graduate medical education in a public or nonprofit hospital in association with a medical and dental unit would be a state agency employee regardless of whether the resident received a stipend or other payment from the medical and dental unit for services performed as a resident.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUBJECT: Courts' handling of fines and costs for defendants with inability to pay

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson
0 nays
1 absent — Hunter

SENATE VOTE: On final passage, May 3 — 25-6 (Bettencourt, Creighton, Huffman, Schwertner, L. Taylor, V. Taylor)

WITNESSES: No public hearing

DIGEST: SB 1913 would revise provisions dealing with courts' procedures to assess fines and costs for criminal defendants who are indigent or unable to pay the amounts. The bill would make other changes, including revising requirements for notifying defendants about those procedures and assessments and expanding courts' options for imposing community service.

The bill would generally take effect September 1, 2017, and would apply only to offenses committed on or after that date. Several provisions dealing with sentencing proceedings would apply to proceedings that commenced before, on, or after the bill's effective date. The bill would take effect only if an appropriation for it was included in the general appropriations act.

Imposing, waiving court fines, costs. SB 1913 would allow courts, including justice and municipal courts, to impose fines and costs at the punishment stage of a case in which the defendant entered a plea in open court only if the court determined that the defendant had sufficient resources or income to pay the fines and costs. To make the determination, courts would have to consider the defendant's financial history and other relevant information.

The bill would revise provisions dealing with when and how courts, including justice and municipal courts, may waive payment of fines and costs. Defendants no longer would have to be in default for the fines and costs to be waived. Currently, fines and costs may be waived if a defendant is indigent, and the bill would allow waivers for those with insufficient resources or income to pay fines or costs. Courts would be allowed to waive fines and costs if the waiver was in the interest of justice, instead of also having to make findings related to indigency, resources, and hardships.

Capias pro fine. Courts, including justice and municipal courts, would be prohibited from issuing a capias pro fine to bring a defendant to court for a defendant's failure to pay a judgment for fines and costs unless the court held a hearing on the defendant's ability to pay and certain conditions were met. The defendant would have to have failed to appear at the hearing or, based on evidence presented at the hearing, the court would have to make certain determinations about the defendant's good faith efforts to pay the fines and costs and his or her indigency. The court would have to recall a capias pro fine if the defendant voluntarily appeared and resolved the amount owed. These provisions would apply to capias pro fines issued on or after the bill's effective date.

Arrest warrants, bonds in justice and municipal courts. Justice and municipal courts would be prohibited from issuing arrest warrants for defendant's failure to appear in court, including failure to appear after a cite-and-summons, unless certain conditions were met. A warrant could be issued only if the defendant was given notice that included specific information outlined in SB 1913, including information about alternatives to the full payment of fines and costs. Defendants who got the notice would be able to request an alternative court date. An arrest warrant would have to be withdrawn if a defendant voluntarily appeared and made a good faith effort to resolve the a warrant.

The bill would revise provisions dealing with justice and municipal courts issuance of bonds, which currently authorize these courts to require defendants to give bail to secure their appearance in court. Instead, courts would be authorized to give defendants personal bonds and could require bail bonds only under certain circumstances. These courts could require

bail bonds, sureties, or other securities only if the defendant failed to appear as required and the court determined that defendant had sufficient resources or income to give a bail bond or that a surety or other security was necessary to secure a defendant's appearance in court.

Courts would have to reconsider the requirement for the bail bond if 48 hours after requiring the bond, the defendant had not given the bond. In these situations, the court would presume the defendant did not have sufficient resources or income for the bond and could require a personal bond. Defendants could be held in custody if they refused to give a personal bond or, except for the circumstances established by the bill, refused to give a bail bond. The bill would prohibit courts from assessing a personal bond fee when requiring a defendant to give a person bond.

These provisions would apply only to bonds executed on or after the bill's effective date.

Notice about alternatives to full payment. The bill would amend several provisions to require that defendants be given information about alternatives to the full payments of fines and costs, if an individual is unable to pay. SB 1913 would require information about such alternatives to be on citations that under some circumstances may be issued by peace officer issue in lieu of an arrest. The information about alternatives to full payments also would have to be sent to defendants with certain notices about the disposal of fine-only misdemeanors after a guilty or no contest plea made through the mail.

SB 1913 would expand what must be in a notice that entities collecting unpaid debts for counties and cities send to defendants to include a statement that if the person was unable to pay the amount that was acceptable to the court, the person should contact the court about alternatives to full payment.

Community service options. The bill would expand options for court-ordered community service. Courts could order community service through attending a work and job skills training program, preparatory classes for the high school equivalency exam, or similar activities. The bill also would allow community service to be done for religious

organizations, neighborhood associations, or educational institutions. Similar provisions would be applied to community service ordered by justice and municipal courts for certain juvenile defendants to satisfy fines and costs.

SB 1913 would revise provisions granting immunity from liability to certain entities concerning labor performed by inmates. The immunity would be extended to entities that accepted defendants for community service and would apply to the performance of community service.

Other provisions. SB 1913 contains several other provisions, including ones about discharging fines with jail time and work and Transportation Code provisions dealing with registering vehicles and denying driver's licenses.

Rates for discharging fines with jail, work. The bill would raise the rates at which certain defendants are credited for jail time and labor at certain work programs to discharge fines and costs.

Refusal to registering vehicles, denying driver's license. The bill would amend Transportation Code provisions that allow counties and the Texas Department of Motor Vehicles (TxDMV) to refuse to register vehicles if the owner owes the county past due fines or fees or has failed to appear in a court for a criminal proceeding. Information about past due fines and fees related to a crime would expire two years after the information was provided to the county or TxDMV. The information could not be used after that date to deny a vehicle registration. Information about other fines or fees that became past due during that same two-year period could not be used to refuse to register a vehicle before or after the two years. The bill would add a waiver as a way to resolve the charges.

Justice and municipal court judges would be authorized to waive a currently authorized administrative fee that may be imposed by a county in these cases.

SB 1913 would amend several Transportation Code provisions about the denial of the renewal of a driver's license by the TxDMV based on a report from a city or county that a person failed to appear in a court or

failed to pay court fines and costs. These include provisions relating to when TxDMV may not continue to deny a license.

The bill would revise the conditions under which persons who fail to appear or who fail to pay court fines and costs must pay a \$30 administrative fee to TxDMV. In the case of those who fail to pay court fines or costs, persons determined by a court to be indigent would not have to pay the fee, and the bill would establish conditions under which a person would be presumed to be indigent. The bill would expand the conditions under which persons who fail to appear in a court would not be required to pay the fee to the department.

**SUPPORTERS
SAY:**

SB 1913 would revise the way courts may handle low-income defendants who cannot pay court costs and fines so that they could be held accountable in a fair way that would not further a cycle of debt and involvement with the criminal justice system. Many courts in Texas already implement provisions of the bill, but SB 1913 would export these best practices statewide.

Currently, when low-income Texans do not have the ability to pay court fines and costs assessed for traffic tickets and other low-level, fine-only offense, they can become trapped in a cycle of debt, arrest warrants, jail time, license suspensions, and more. This can result in job losses and harm to family and educational obligations. While current law has provisions for handling defendants who are indigent, the timing of those provisions, lack of knowledge about the criminal justice system, and apprehension about dealing with the court system can result in the fines and costs being assessed and then not being paid. SB 1913 would address these issues by giving courts more options for dealing with these defendants and by providing defendants information about alternative ways to pay their debts and resolve their cases. The changes in SB 1913 would increase compliance with the law, which is intended to consider a criminal defendant's ability to pay fines and costs. This could increase payments of fines and would reserve criminal justice resources for other cases.

The bill would make several changes so that a person's ability to pay court costs and fines were considered up front and throughout the criminal

justice process. Judges would be required to determine that a person had the resources to pay court fines and costs before imposing them. This would help put the justice system's time and resources to more efficient use by determining indigence early in the process, rather than waiting for the defendant to default on something he or she never had the ability to pay, possibly leading to arrest and triggering other consequences. The bill only would require that a judge inquire about resources, not that a proceeding be held.

Courts would receive additional tools to satisfy costs and fines, including more options when waiving fines and costs. However, judges would retain their discretion in making such determinations. The bill would expand community service options as a way for defendants to take care of their responsibilities. The bill would require standard language in notices from courts so that defendants knew there were non-monetary options to satisfy fines and costs.

SB 1913 would encourage defendants to come to court to clear up traffic tickets and other obligations by prohibiting arrest warrants for failure to appear unless certain conditions were met and requiring arrest warrants to be withdrawn upon voluntary appearance and a good faith effort to answer to the court. The bill also would require courts to have a hearing before issuing *capias pro fines* so that defendants had a chance to explain their situation and could receive alternatives to paying fines and costs. Other changes would encourage justice and municipal courts to require personal bonds of defendants, rather than bail bonds, so that defendants are not kept in jail because they could not pay fees and costs.

Other provisions of the bill would focus on helping defendants keep driving legally even if they could not pay court fines and costs, allowing them to maintain work, school, and family obligations.

**OPPONENTS
SAY:**

Under current law, in most cases, indigent defendants can explain to a court that they are unable to pay fines, and the court normally will work with them and may order community service. Even incremental changes to this system could contribute to a culture in which there was decreased incentive to comply with the law.

OTHER
OPPONENTS
SAY:

SB 1913 could impose burdens on some courts. For example, the bill's requirement for courts to make an up-front determination that a defendant had sufficient resources to pay fines and costs could result in courts having to hold proceedings in all cases to make the determinations.

The bill's allowance for courts to waive fines and fees in the interest of justice could give judges too much discretion in these cases. It would be better to outline or define situations that would allow such a waiver.

NOTES:

The Legislative Budget Board's fiscal note estimates that bill would have an indeterminate cost to the state.